

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

PRAIRIE ISLAND INDIAN  
COMMUNITY,

Plaintiff,

v.

RADISSON HOTELS  
INTERNATIONAL, INC., and  
TREASURE ISLAND, LLC,

Defendants.

Civil Action No. 20-CV-01234-NEB-TNL

**PARTIAL MOTION OF DEFENDANT TREASURE ISLAND, LLC AND  
DEFENDANT RADISSON HOTELS INTERNATIONAL, INC. TO DISMISS  
COUNTS THREE, FOUR, TEN, AND ELEVEN OF PLAINTIFF’S COMPLAINT  
AND TO STAY DEADLINE FOR ANSWERING THE COMPLAINT**

Defendant Treasure Island, LLC (“TIL”) and Defendant Radisson Hotels International, Inc. (“RHI”) and (RHI and TIL collectively, “Defendants”), move this Court to dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), Counts Three, Four, Ten, and Eleven of Plaintiff’s Complaint asserting claims for trademark dilution under the Lanham Act and Minn. Stat. Ann. § 333.285, and to stay the deadline for Defendants’ Answer to the Complaint pending resolution of this Partial Motion to Dismiss. Counts Three, Four, Ten, and Eleven of Plaintiff’s Complaint suffer from fatal defects warranting dismissal with prejudice.

First, Plaintiff has failed to properly allege a plausible claim for dilution by blurring because Plaintiff has not and cannot allege that TIL uses the Treasure Island

name in connection with services different from those offered by the Plaintiff under the TREASURE ISLAND Marks. To be entitled to relief under 15 U.S.C. § 1125(c)(2)(B), Plaintiff must allege that defendants used Plaintiff's famous mark in their sale of unrelated goods or services. Both Plaintiff and TIL use the Treasure Island name in connection with the provision of the same services: hotel, casino and resort operation.

Second, Plaintiff has failed to allege specific facts supporting its dilution by tarnishment claim, relying instead on wholly conclusory recitations of the elements necessary to support this claim. To properly support a dilution by tarnishment claim under 15 U.S.C. § 1125(c)(2)(C), Plaintiff must establish that the famous mark will suffer negative associations as a result of the use of the similar mark. In its Counts Three, Four, Ten, and Eleven, Plaintiff does not allege *any* facts demonstrating how Defendants' use of TREASURE ISLAND will result in negative associations or cause reputational harm to the TREASURE ISLAND Marks.

Third, because Plaintiff's Minnesota state law claims for dilution (Counts 10 and 11) are coextensive with Plaintiff's dilution claims under the Lanham Act (Counts 3 and 4), and courts in this Circuit analyze these claims together, for the same reasons discussed above regarding Plaintiff's dilution claims under the Lanham Act, Plaintiff has not plausibly alleged any trademark dilution claims under Minnesota state law. Accordingly, Counts Three, Four, Ten, and Eleven of Plaintiff's Complaint should be dismissed with prejudice.

Finally, because Defendants move to dismiss only a subset of the counts alleged in the Complaint, and because Plaintiff has consented to Defendant's proposed stay of the

deadline to answer the remaining allegations in the Complaint, this Court should stay Defendants' obligation to answer the remaining allegations in the Complaint pending disposition of this Motion.

This motion is based on the accompanying Defendant Treasure Island, LLC's and Defendant Radisson Hotels International, Inc.'s Memorandum of Law in Support of their Partial Motion to Dismiss and to Stay Deadline for Answering the Complaint, the papers and records on file in this action, and such other written and oral arguments as may be presented to the Court at a hearing on this matter.

Dated: July 27, 2020

By: s/ Gina L. Durham

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